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10/710,791	08/03/2004	William J. Brennan	71189-1632	4758

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EXAMINER
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SNIDER, THERESA T

ART UNIT	PAPER NUMBER
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1744

MAIL DATE	DELIVERY MODE
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05/25/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/710,791

**Applicant(s)**

BRENNAN ET AL.

**Examiner**

Theresa T. Snider

**Art Unit**

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 August 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____                                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/3/2004</u> .  | 6) <input type="checkbox"/> Other: ____                           |

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 304(0049), 104(0054). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "156" has been used to designate both retainer ring(0055) and mounting rails(0055). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "70"(0057) and "270(0057)" have both been used to designate bushing. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

4. The disclosure is objected to because of the following informalities:

Exemplary of such:

0004, lines 1-2, it is unclear as to what is meant by 'The conventional design...to be cleaned.'

0040, lines 1 and 2, 'a'(all occurrences) should be replaced with 'the';

Line 3, 'an' should be replaced with 'the'.

0041, line 3, 'an' should be replaced with 'the';

'A' should be replaced with 'The'.

0048, lines 1 and 3, 'a' should be replaced with 'the'.

0054, line 9, 'An' should be replaced with 'The';

Line 11, 'an' should be replaced with 'the'.

0057, 'a pin axle' should be replaced with 'the pin axle'.

0060, 'an interposed gasket' should be replaced with 'the interposed gasket'.

0061, line 11, 'an' should be replaced with 'the'.

0062, line 5, 'an' should be replaced with 'the'.

0069, 'a squeegee' should be replaced with 'the squeegee'.

0077, line 2, 'recovery' should be replaced with 'recover'.

Appropriate correction is required.

### ***Claim Objections***

5. Claims 1-15 are objected to because of the following informalities: Exemplary of such: claim 1, line 24, 'the' should be inserted after 'with'. Claim 9, 'and' should be inserted after 'and outlet vents;'. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Exemplary of such:

Claim 1, line 17, 'housing' should be inserted after 'base'.

Claim 15, line 2, 'the motor drive shaft' lacks proper antecedent basis.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Weaver et al.(5,715,566).

Weaver et al. discloses a base housing adapted to movement along a surface to be cleaned (fig. 14, #394,352,420).

Weaver et al. discloses a handle pivotally mounted to a base housing (fig. 14, #354).

Weaver et al. discloses a liquid dispensing system mounted on the base housing having a liquid dispenser(fig. 16, #386), a liquid supply tank(fig. 14, #440) and a liquid supply conduit fluidly connected to the tank and dispenser(fig. 16, #508).

Weaver et al. discloses a liquid recovery system having a recovery tank with a liquid recovery chamber (fig. 14, #442), a suction nozzle associated with the base housing(fig. 16, #374), a working air conduit extending between the nozzle and through the chamber (fig. 16, #506, arrows), a vacuum source mounted in the base housing (fig. 15, #428) and an exhaust vent in communication with the working air conduit (fig. 15, #472, col. 10, lines 36-43).

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With respect to claim 2, Weaver et al. discloses the exhaust vent positioned in an upper surface of the recovery tank (fig. 15, #472,442).

With respect to claim 3, Weaver et al. discloses the exhaust vent removably mounted to an upper portion of the recovery tank (fig. 15, #472,442).

With respect to claims 4-5, Weaver et al. discloses the vacuum source in the conduit between the nozzle and recovery tank (col. 10, lines 24-27).

With respect to claim 6, Weaver et al. discloses the vacuum source in the conduit downstream of the recovery tank (col. 10, lines 24-27).

With respect to claim 7, Weaver et al. discloses the vacuum source is mounted in the base housing (fig. 15, #428).

### ***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

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4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
12. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
13. Claims 1 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimko et al.(6,347,428) in view of Sham et al.(5,819,364).

Shimko et al. discloses a similar cleaning apparatus however fails to disclose an upright handle mounted to a base housing.

Shimko et al. discloses a base housing adapted to movement along a surface to be cleaned (fig. 1, #10).

Sham et al. discloses a handle mounted to a base housing (fig. 1, #10,12). It would have been obvious to one of ordinary skill in the art to provide the handle of Sham et al. in Shimko et al. to permit a user to operate the cleaning apparatus as either a hand-held unit or an upright without reducing efficiency of the suctioning capability of the cleaning apparatus. It would have been obvious to one of ordinary skill in the art to make the handle of Shimko et al. in view of Sham et al. pivotal to allow the user greater options in handle placement for the most comfortable use.



Shimko et al. discloses a liquid dispensing system mounted on the base housing having a liquid dispenser(fig. 1, #30), a liquid supply tank(fig. 1, #16) and a liquid supply conduit fluidly connected to the tank and dispenser(col. 4, lines 23-24).

Shimko et al. discloses a liquid recovery system having a recovery tank with a liquid recovery chamber (fig. 8, #20,178), a suction nozzle associated with the base housing(fig. 8, #60), a working air conduit extending between the nozzle and through the chamber (fig. 8, #109), a vacuum source mounted in the base housing (fig. 8, #72,74) and an exhaust vent in communication with the working air conduit (fig. 1, #172, col. 6, lines 5-22).

With respect to claim 7, Shimko et al. discloses the vacuum source is mounted in the base housing (fig. 8, #72).

***Allowable Subject Matter***

14. Claims 8-15 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

15. The following is a statement of reasons for the indication of allowable subject matter:  
With respect to claim 9, the prior art discloses a vacuum source that includes a motor mounted within a portion of the base housing, a cooling air path formed in the base housing that includes the motor, an inlet vent at one end and an outlet vent being the same as the exhaust at another end with the motor there between and a fan for generating a flow of cooling air HOWEVER fails to disclose or fairly suggest the outlet vent in addition to the exhaust vent.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa T. Snider whose telephone number is (571) 272-1277. The examiner can normally be reached on Monday-Friday (5:30am-2:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Theresa T. Snider  
Primary Examiner  
Art Unit 1744

5/22/2007